

HOUSE BILL 3266
By Fowlkes

AN ACT to amend Chapter 36 of the Private Acts of 1961, as amended by Chapter 185 of the Private Acts of 1984; Chapter 66 of the Private Acts of 1993; and any other acts amendatory thereto, relative to the charter of the city of Lewisburg.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 36 of the Private Acts of 1961, as amended by Chapter 185 of the Private Acts of 1984; Chapter 66 of the Private Acts of 1993; and any other acts amendatory thereto, is amended in Article I by deleting Section 4 in its entirety and by substituting instead the following:

Miscellaneous powers by ordinance or resolution.

(a) Be it further enacted, That the city of Lewisburg shall have the power by ordinance:

(1) To assess, levy, provide for and collect upon all property and privileges within its limits which are or shall be taxable by the laws of the state of Tennessee, and to assess, levy, provide for and collect taxes on any and all subjects or objects of taxation, either for general or special purposes, not expressly forbidden by general laws of the state of Tennessee.

(2) To adopt such classifications with reference to all subjects or objects of taxation, not otherwise expressly prohibited by law.

(3) To make and levy special assessments against abutting or adjoining property for local improvements, and to exercise the specific powers granted under the "Improvements by Special Assessment Law" and the "Improvement Bond Law", as now incorporated in the Tennessee Code Annotated, or as hereafter amended.

(4) To acquire, maintain, hold and operate an electric plant or electric distribution system as provided in the "Municipal Electric Plant Law of 1935" of the state of Tennessee as now incorporated in the Tennessee Code Annotated, or as hereafter amended.

(5) To expend the revenues, monies and property of the city for all lawful municipal purposes.

(6) To effectually exercise the right of eminent domain, and to condemn property, real or personal, or any easement interest, estate or use therein, either within or without its territorial limits, for present or future public use, such right of eminent domain to be exercised in accordance with the terms and provisions of the Tennessee Code Annotated, or as hereafter amended.

(7) To acquire, own, erect, build, construct, maintain and operate, or to sell, lease, mortgage, pledge or otherwise dispose of any public utility or any estate or interest therein, or property, real or personal, used in connection therewith, or any utility of service to the city, its inhabitants, or any part thereof.

(8) To grant to any person, firm, corporation or association, franchises for public utilities and public services to be furnished to the city and its inhabitants. The power to grant franchises shall include the power to grant exclusive franchises, and whenever an exclusive franchise is granted, it shall be deemed to be exclusive against any person, firm, corporation, or association, and against the city itself. Franchises may be granted for a period of twenty-five (25) years,

but not longer, and the city is fully empowered to prescribe and regulate rates, fares, charges, and other regulations that may be made by the grantee of the franchise. Franchises may, by their terms, apply only to the territory within the corporate limits at the dates of the franchises, or to the territory as the limits may thereafter be enlarged; and to the then existing streets, alleys, and other thoroughfares, or to any other streets, alleys and other thoroughfares that thereafter may be opened.

(9) To make contracts with any person, firm, corporation or association for public utilities and public services to be furnished the city and its inhabitants. The power to make contracts shall include the power to make exclusive contracts; and when an exclusive contract is entered into, it shall be deemed as exclusive not only against any other person, firm, corporation or association, but also against the city itself. Such contracts may be entered into for the period of twenty-five (25) years or less, but not longer, and the city is fully empowered to prescribe in each contract entered into, the rates, fares, charges and regulations that may be made by the person, firm, corporation or association with whom the contract is made. The contracts may, by their terms, apply to the territory within the corporate limits of the city at the date of the contract, and such corporate limits may be enlarged; and to the then existing streets, alleys and thoroughfares, and to any other street, alleys and other thoroughfares that thereafter may be opened.

(10) To prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, and compel reasonable extensions of facilities for such services, and to require public utilities to enter into "joint use agreements" for the construction, installation, erection, placement, location, use and maintenance of poles, conduits, structures, and

facilities where wires, cables, pipes, lines or similar apparatuses are used and employed by such utilities for the transmission of electric power, energy and/or messages; but nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted, or of any exclusive contract entered into under subsections (8) and (9) of this section.

(11) To establish, open, locate, vacate, alter, abandon, widen, extend, grade, improve, repair, construct, maintain, light, sprinkle and clean public highways, streets, alleys, boulevards, parks, squares, bridges, culverts, sewers, drains, and public grounds and properties within or without the corporate limits, and to regulate the use thereof within the corporate limits, including sidewalks, walkways or pavements, and to regulate and control the use of all sidewalks, walkways or pavements abutting or adjacent to any public road, street, highway, alley, boulevard, park, parkway, bridge, public way or square within the corporate limits.

(12) To construct and reconstruct, improve and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys, or other public properties within the corporate limits, and to assess a portion of the cost of such improvements upon the property abutting upon or adjacent to such streets, highways, avenues, alleys, or other public properties, as provided by Tennessee Code Annotated, Sections 7-32-101--7-37-201.

(13) To license and regulate all persons, firms, corporations or associations engaged in any business, profession, vocation, occupation, or trade not forbidden by law, and to impose a license tax upon any property, thing, business, profession, vocation, occupation or trade not prohibited by law.

(14) To define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, professions, vocations or trades, uses of property and all other things detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the city, and in conjunction with the powers herein set out to demand and receive fees and costs of permits and inspections incident to effectual regulation.

(15) To prescribe locations, zones and limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security, comfort or general welfare of the inhabitants of the city may lawfully be established, conducted or maintained.

(16) To regulate the location, bulk, occupancy, area, lot, height, construction and materials of all buildings and structures, and to inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and, when necessary, prevent the use thereof and require any alterations or changes necessary to make them healthful, clean or safe.

(17) To provide and maintain charitable, educational, curative, recreative, corrective, detentive or penal institutions, departments, facilities, conveniences and services, or to contract with any outside agency to provide and maintain, or to render the functions and services contemplated herein.

(18) To purchase, acquire, establish and maintain a city workhouse for the confinement and detention of any person convicted in the city court of offenses prohibited by ordinances of the city, who fails to secure the fine and cost imposed upon him, or to contract with Marshall County to keep and confine in the county workhouse any such person, and to provide by ordinance for the commitment of such person to the county workhouse, until such fine and cost

shall be fully paid, and to contract with the sheriff of Marshall County for such services.

(19) To enforce all ordinances, rules or regulations by means of penalties or forfeitures, or by action or proceeding in any court of competent jurisdiction; however, no penalty shall exceed the sum of five hundred dollars (\$500.00).

(20) To establish and maintain schools, provide for the necessary boards, officers and teachers required therefor, and to fix and determine their compensation, to purchase or otherwise acquire lands for school purposes, schoolhouses, playgrounds and other purposes connected with the schools of the city, and to erect all necessary buildings and improvements, and to do all other acts necessary to establish, maintain and operate a complete and adequate educational system within the city, and to enter into agreements and contracts with Marshall County, the state of Tennessee, or any federal agency for the joint maintenance and operation thereof, and to suffer and permit the operation and maintenance thereof within the city by Marshall County.

(21) To regulate tax, license or suppress the keeping or running-at-large of animals within the city; to impound the animals, and, in default of redemption, to sell or otherwise dispose of the animals.

(22) To make all reasonable regulations to prevent the spread of contagious diseases within the city, and to make and enforce regulations to promote sanitation, health and general welfare of the inhabitants of the city, and to enter into agreements and contracts for joint or cooperative efforts to this end with Marshall County, the state of Tennessee, or any federal agency.

(23) To purchase, acquire, hold, establish, construct, equip, improve, maintain and operate for the city a municipal airport or landing field for the use of aircraft, and to acquire by purchase, lease, condemnation or otherwise, real

estate situated either within or without the limits of the city, or to set apart any real estate now owned by it to be used for this purpose.

(24) To provide for an adequate system of assessment of property, real, personal or mixed, or for municipal tax purposes; to elect a tax assessor for the city, or to impose the duties of such upon any other city official, and to fix and define the duties to be imposed in connection therewith; and to fix and determine the method of his election, term of office and salary of such official, as hereinafter provided.

(25) To provide for an adequate system for equalization and adjustment of all tax assessments on real and personal property within the limits of the city of Lewisburg.

(b) Be it further enacted, That the city of Lewisburg shall have the power by resolution:

(1) To contract and be contracted with.

(2) To incur debts by borrowing money or otherwise, and to give any appropriate evidence thereof, in the manner herein provided, or as otherwise provided by law.

(3) To issue and give, sell, pledge, or in any manner dispose of negotiable or non-negotiable interest bearing or non-interest bearing warrants, bonds, promissory notes or others of the city, upon the credit of the city, or solely upon the credit of specific property owned by the city, or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the city, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more, or a combination of any two (2) or more, of such credits.

(4) To purchase, acquire, receive, hold, maintain, improve, sell, lease, mortgage, pledge, or otherwise dispose of property, real or personal, or any estate or interest therein, either within or without the city or state.

(5) To receive and hold property in trust, real or personal, either within or without the city or state, and to administer such trusts for public use and benefit.

(6) To purchase, acquire, hold, construct, maintain and regulate market places, public properties and buildings, bridges, culverts, sewers and other structures, works and public improvements.

(7) To collect and dispose of drainage, sewage, offal, ashes, garbage and refuse in any manner not in conflict with the general law, or to license and regulate such collection and disposal.

(8) To call upon the commissioners of elections of Marshall County to call, provide for, and control all municipal elections, including all elections respecting bond issues, and to provide for and regulate the registration of voters, and to certify the results of the elections, and to call upon the commissioners of elections of Marshall County to furnish and provide all registration records necessary and proper for the conducting and holding of such elections and referenda; and to call upon the commissioners of elections to furnish and provide voting machines for municipal elections and referenda.

(9) To purchase, acquire, establish, improve, maintain and operate municipal cemeteries, either within or without the corporate limits of the city and to provide for adequate supervision, care and maintenance thereof, and for this purpose the city is expressly authorized to establish and create out of any available revenues a fund for the perpetual care and maintenance of the cemeteries, with the fund to be kept separate from all other revenues of the city and to be delivered, controlled, supervised and disbursed in a manner as may be

provided by ordinance creating the same; and to enter into existing contracts or agreements for the supervision, maintenance and control of existing cemeteries within its corporate limits, and to accept, receive and hold donations and grants from any person or persons and to expend such donations or grants for the maintenance and upkeep of the same.

(c) Be it further enacted, That the city of Lewisburg shall have the power to exercise all lawful powers which it would have now or hereafter have as provided by the constitution of the state of Tennessee, Tennessee Code Annotated, Private Acts of the General Assembly, as fully and as effectively as though enumerated herein.

SECTION 2. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article I by deleting from Section 8 the language "by the unanimous consent of the city council evidenced by resolution or ordinance duly passed and adopted", and by substituting instead the language "by resolution"; and is further amended by deleting the language "held and owned, managed and controlled by the city for use as a cemetery or graveyard; or shall said restrictions and regulations be applicable to such real estate as may be".

SECTION 3. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article III by deleting Section 6 in its entirety and by renumbering the subsequent sections accordingly.

SECTION 4. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article III by deleting from Section 8 the language "and shall be subject to removal from office and his removal from office shall become a part of the judgment of conviction of such offense", and by substituting instead the language "and may be removed from office as part of the sentence".

SECTION 5. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article III by deleting in Section 10 the word "ordinance" in the fifth line of the first paragraph and by substituting instead the word "resolution"; and is further amended by deleting the figures "7:30" and by substituting instead the figures "6:30" in the fifth line thereof.

SECTION 6. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article III by deleting Section 11 in its entirety and by substituting instead the following:

Presiding officer. Be it further enacted, That the mayor shall preside at all meetings of the city council. In the mayor's absence, the city council shall elect a councilman to preside as mayor pro tempore at such meeting. The mayor pro tempore shall be entitled to a voice in and entitled to vote on all matters arising at the meeting. Neither the mayor nor mayor pro tempore shall have veto power.

SECTION 7. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article III by deleting Section 13 in its entirety and by substituting instead the following language:

Quorum. Be it further enacted, That a majority of the five (5) councilmen of the city council shall constitute a quorum for the transaction of business. If less than a quorum is present at a regular or special meeting, no action shall be taken except such number may recess the meeting to a time certain when a quorum may consider any matter which could have been properly considered at the recessed meeting, and such action in recessing the meeting shall be recorded by the recorder.

SECTION 8. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article IV by deleting Section 3 in its entirety and by substituting instead the following language:

Service of process. All process against the city shall be served upon the mayor or city attorney and in the event they are unavailable for any reason, then upon the city manager or recorder. If service is upon the mayor, city manager or recorder, a copy of such process shall be timely delivered by the mayor, city manager or recorder to the city attorney after designating the time, place and manner of service thereon.

SECTION 9. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article VI by deleting Section 2 in its entirety and by substituting instead the following language:

Treasurer, recorder, city attorney and employees. The city council shall appoint and fix the salary of the treasurer, recorder, and the city attorney and shall make

provision by ordinance or resolution for such other officers, agents and employees as deemed necessary.

SECTION 10. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article VII by deleting the last sentence in Section 1 and by substituting instead the following language:

When the city manager is temporarily absent or disabled, the city council may appoint a suitable and qualified person to perform the duties of the city manager during his temporary absence or disability.

SECTION 11. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article VII by deleting subsection 2(b) in its entirety and by substituting instead the following language:

(b) Except for the treasurer, recorder, city judge and city attorney, to appoint and remove all subordinate officers, agents and employees.

SECTION 12. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article VII by deleting subsection 2(c) in its entirety and by substituting instead the following language:

(c) To supervise and control the work of the treasurer, recorder and all other subordinate officers, agents and employees of all departments and divisions created by this charter, or which now may be or hereafter created by ordinance, and to coordinate with the city attorney.

SECTION 13. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article VIII by deleting Section 5 in its entirety and by substituting instead the following language:

Salary. The salary of the city judge shall be twenty thousand dollars (\$20,000.00) per annum, payable in equal monthly installments. Beginning July 1, 1999, and the first day of each succeeding July, the salary of the city judge shall be adjusted to an amount

equal to the consumer price index as published by the United States Department of Labor, Bureau of Labor Statistics, for the preceding calendar year; however, no annual adjustment shall exceed four percent (4%) irrespective of the increase in the consumer price index for the preceding year. The salary of the city judge shall not be diminished during his term.

SECTION 14. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article VIII by deleting Section 8 in its entirety and by substituting instead the following language:

Warrants. There shall be inserted in all criminal warrants the following caption: "State of Tennessee, City of Lewisburg". Criminal warrants shall be issued in compliance with Rules 3 and 4 of the Tennessee Rules of Criminal Procedure or as hereafter amended.

SECTION 15. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article X by deleting in Section 4 the language "for the use of the City" and by substituting instead the word "reasonable", and is further amended in Section 4 by inserting a period after the language "such fees" and deleting the language "as may be provided by ordinance; cause ordinance to be printed, as may be directed by the city council, and kept in his office for distribution."

SECTION 16. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article XIII by deleting from Section 1 the word "mayor".

SECTION 17. Chapter 36 of the Private Acts of 1961, as amended, is amended in Article XV by deleting from Section 1 the language "as may be provided by ordinance, whose salary shall be fixed by the city council."

SECTION 18. Chapter 36 of the Private Acts of 1961, as amended, is amended in Section 3 of Article XV by adding the language "or citations" between the words "warrants" and "serve".

SECTION 19. Chapter 36 of the Private Acts of 1961, as amended, is amended in Section 4 of Article XV by adding the language "or chief of police" between the language "city manager" and "in time of riot", and is further amended in Section 4 by deleting the word "male".

SECTION 20. Chapter 36 of the Private Acts of 1961, as amended, is amended in Section 1 of Article XVI by deleting the language "as may be provided by ordinance, whose salaries or compensation shall be fixed by the city council."

SECTION 21. Nothing in this act shall be construed as having the effect of altering the salary of any incumbent prior to the end of the term for which such public officer was elected.

SECTION 22. Nothing in this act shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which such official was elected.

SECTION 23. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the governing body of the city of Lewisburg. Its approval or nonapproval shall be proclaimed by the presiding officer of the city of Lewisburg and certified to the secretary of state.

SECTION 24. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 23.

AN ACT to amend Chapter 36 of the Private Acts of 1961, as amended by Chapter 185 of the Private Acts of 1984; Chapter 66 of the Private Acts of 1993; and any other acts amendatory thereto, relative to the charter of the city of Lewisburg.

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